

# Civil Bill Courts (Ireland) Bill.

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## B I L L

TO

Extend the Jurisdiction of the Courts for hearing Civil Bill A.D. 1876.  
Causes in Ireland, and for other purposes relating thereto.

WHEREAS it is expedient to extend the jurisdiction of the courts for hearing civil bill causes in Ireland, and to amend the laws relating to the said courts and to the court of quarter sessions in Ireland, and to make provision for the union of counties 5 for the purpose of criminal and civil jurisdiction in manner by this Act prescribed:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and 10 by the authority of the same, as follows:

*Preliminary.*

1. This Act shall extend and apply to Ireland only. Extent.
2. This Act may be cited for all purposes as "The Civil Bill Courts (Ireland) Act, 1876."
- 15 3. Parts I., II., and III. of this Act shall come into operation Commencement of Act. on the first day of January one thousand eight hundred and seventy-seven, and Parts IV., V., and VI. shall come into operation upon the passing of this Act.
4. The Act of the fourteenth and fifteenth years of the reign of Her present Majesty, chapter fifty-seven, may for all purposes be cited or referred to as "The Civil Bill Courts (Ireland) Act, 1851." Short title of 14 & 15 Vict. c. 57.
- 20 5. The Civil Bill Courts (Ireland) Act, 1851, and the several Acts amending or altering the same respectively, as amended by this Act, and this Act, shall be read and construed as one Act. Construction of Act.
- 25 6. The words "annual value," when expressed in this Act of any real or freehold estate or other interest in lands, shall mean the annual value at which such lands are, at the time of the suit or act hereby authorised being instituted or done, valued under the Acts in force for the time being for the valuation of ratesble property in Ireland, or in case the same or any part thereof be not valued separately, the annual value of the same or of such part thereof, Interpretation.

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A.D. 1876. ascertained according to the principles of valuation prescribed by the said Acts.

The expression "Treasury" shall mean the Commissioners of Her Majesty's Treasury for the time being, or any two of them.

## PART I.

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### JURISDICTION OF CIVIL BILL COURTS.

#### *Chancery Jurisdiction.*

Civil bill courts shall have the power of the Court of Chancery in certain matters.

7. The courts for hearing civil bill causes for the several counties in Ireland shall, in addition to the jurisdiction now possessed by them, have and exercise all the power and authority of the High Court of Chancery in Ireland in the suits and matters herein-after mentioned; that is to say,

- (a.) In all suits by creditors, legatees (whether specific, pecuniary, or residuary), devisees (whether in trust or otherwise), heirs at law, or next of kin, in which the estate against or for an account or administration of which the demand may be made, so far as it is personal, shall not exceed in amount or value the sum of *five hundred pounds*, and so far as it is of the nature of realty, the annual value of the same, whether real estate or chattels real (if any), shall not exceed *thirty pounds*:
- (b.) In all suits for the execution of trusts in which the trust estate or fund, so far as it is personal, shall not exceed in amount or value the sum of *five hundred pounds*, and so far as it is of the nature of realty, the annual value of the same, whether real estate or chattels real, shall not exceed *thirty pounds*:
- (c.) In all suits for sale or redemption when the mortgage charge or lien shall not exceed in amount *five hundred pounds*:
- (d.) In all suits for the specific performance of any agreement for the sale, purchase, or lease of any property, or for the reforming, delivering up, or cancelling any such agreement where, in the case of a sale or purchase, the purchase money shall not exceed *five hundred pounds*, and in the case of a lease the annual value of the land shall not exceed *thirty pounds*:
- (e.) In all proceedings under the Married Women's Property Act, 1870, or under any other Act or Acts which may hereafter be passed to extend or amend the same, where the property of the married woman shall not exceed in amount or value the sum of *five hundred pounds*; this

jurisdiction to be in addition to any already existing A.D. 1876.  
under the said Act:

(f.) In all suits for the taking of any partnership account or for  
the dissolution or winding up of any partnership, in which  
the whole property, stock, and credits of such partnership  
shall not exceed in amount or value the sum of *five  
hundred pounds*:

(g.) In all proceedings for partition where the annual value of the  
land to which the suit relates shall not exceed *thirty pounds*:

(h.) In all proceedings by a landlord against a tenant to stay  
waste, whether an account be prayed or not, where the  
annual value of the holding to which the proceedings shall  
refer shall not exceed *thirty pounds*:

(i.) In all proceedings under the Trustee Relief Acts, or under  
the Trustee Acts, or under any of such Acts, in which the  
trust estate or fund to which the proceeding relates shall,  
so far as it is personal property, not exceed in amount or  
value *five hundred pounds*, and so far as it is of the nature  
of realty, the annual value of the same, whether real estate  
or chattels real, shall not exceed *thirty pounds*:

(k.) In all proceedings relating to the maintenance or advance-  
ment or for the protection of the property of infants when  
the property of the infants (so far as it is personal) shall  
not exceed in amount or value the sum of *five hundred  
pounds*, and so far as it is of the nature of realty, whether  
real estate or chattels real, shall not exceed in annual  
value *thirty pounds*:

(l.) In all proceedings for orders in the nature of injunctions  
where the same are requisite for granting relief in any  
matter in which jurisdiction is by this part of this Act  
given to the civil bill courts, or for stay of proceedings at  
law to recover any debt payable under a decree for the  
administration of an estate made by the court to which the  
application for the order to stay proceedings is made.

35. 8. In all such suits and matters as aforesaid, every chairman Powers and  
in addition to the powers and authorities now possessed by him, duties of  
shall, for the purposes of this Act, have all the powers and autho- chairmen  
rities of a judge of the High Court of Chancery; and the clerk of  
the peace and all officers of the civil bill courts shall discharge  
such duties as may be directed by any rules or orders to be framed  
as in Part V. of this Act provided.

9. The Lord Chancellor, on the application at chambers of any party to any suit or matter in respect to which jurisdiction is by this part of this Act conferred pending in any civil bill court, shall Power to the  
Lord Chan-  
cellor, &c. to  
order suits to  
be trans-

A.D. 1876. have power then and there, or if he shall think fit, after hearing a summons served upon the other party or parties, to transfer the same to the Court of Chancery, upon such terms (if any) as to security for costs or otherwise as he may think fit.

Power to transfer a suit commenced in Chancery to the civil bill court in certain cases. 10  
 10. Where any suit or proceeding shall be pending in the High Court of Chancery, which suit or proceeding might have been commenced in a civil bill court, it shall be lawful for any of the parties thereto to apply to the judge to whom the said suit or proceedings shall be attached to have the same transferred to the civil bill court, and such judge shall have power upon such application, or without such application, if he shall see fit, to make an order for such transfer, and thereupon such suit or proceedings shall be carried on in the civil bill court to which the same shall be ordered to be transferred; and the parties thereto shall have the same right of appeal that they would have had, had the said suit or proceeding been commenced in such civil bill court: Provided that it shall be in the power of the judge to retain such suit if it shall appear to him for any reason more expedient to do so.

Where the amount of the subject-matter of a suit exceeds the limits of the jurisdiction of the civil bill court, the suit to be transferred to the Court of Chancery. 20  
 11. If during the progress of any suit or matter it shall be made to appear to the chairman that the subject-matter exceeds the limit in point of amount to which the jurisdiction of the chairman is by this part of this Act limited, it shall not affect the validity of any order or decree already made; but it shall be the duty of the chairman to direct the said suit or matter to be transferred to the Lord Chancellor, who shall have power to regulate the whole of the procedure in the said suit or matter when so transferred, and who may either retain the said cause within his own jurisdiction for his own decision, or if it shall appear to him for the interest of justice that the same should proceed in the civil bill court where it had been commenced, may so direct, and his order shall thereupon confer jurisdiction on 30 such court to proceed therein.

Power to order a legacy to which no infant or person beyond seas is entitled to be paid into the Court of Chancery. 35  
 12. Any legacy or sum of money to which any person who is an infant or absent beyond seas may be found or declared to be entitled by any chairman in any suit or matter, may be ordered by him to be paid to the Accountant General of the Court of Chancery, in accordance with the provisions of section thirty-three of an Act passed in the session of Parliament held in the fifty-fourth year of the reign of His late Majesty King George the Third, chapter ninety-two; and the person ordered to pay the same shall within such time as the chairman shall direct, produce to the clerk of the 40 peace of the county the certificate of the Accountant General of the payment of such money; and if default shall be made in such payment, the chairman may direct a warrant of execution to issue to the high sheriff of the county or city in which such civil bill

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court is held, who, by such warrant, shall be empowered to levy or cause to be levied by distress and sale of the goods and chattels of such person a sum of money equal in amount to the sum he was ordered to pay to the said Accountant General and to the costs incurred by reason of such default, and the sum so levied shall be paid to and be receivable by the said Accountant General under the direction of the court; and all amounts so paid or transferred into the Court of Chancery, with any dividends thereon, shall be paid or transferred to the person or persons entitled thereto, or otherwise applied for his or their benefit, on application by summons to the Lord Chancellor while sitting at chambers.

13. The Lord Chancellor, with the concurrence of the chairman of any county, shall have power from time to time to order for such county, at what places and in what banks, including post office savings banks, moneys ordered by the civil bill court to be paid into court or lodged by trustees under the Trustee Relief Acts shall be deposited; and such deposit, if in a post office savings bank, may be made without restriction as to amount, and without the declaration required of a depositor; and to direct in what manner and according to what rules or regulations such deposits are to be made, and no moneys when deposited shall be drawn or paid out except upon an order signed by the judge of the civil bill court under an order of which the money was so deposited, or by the Lord Chancellor.

How money paid into a civil bill court in equitable proceedings is to be deposited.

25 14. Proceedings under the authority of this part of this Act shall be taken in such civil bill courts as are herein-after mentioned; that is to say,

In what court proceedings shall be taken.

(a.) Proceedings which relate to the sale, redemption, or partition of any lands, tenements, or hereditaments, or which pray an injunction to stay waste upon lands, shall be taken in the civil bill court within the jurisdiction of which such lands, tenements, or hereditaments are situate; and where the said lands, tenements, or hereditaments are situate within the jurisdiction of two or more civil bill courts, then in any of such civil bill courts:

30 (b.) Proceedings under the Married Women's Property Act, 1870, or any other Act or Acts which may hereafter be passed to alter or amend the same, shall be taken in the civil bill court within the jurisdiction of which the person or persons making the application, or any of such persons, reside or resides:

35 (c.) Proceedings for the administration of the assets of a deceased person shall be taken in the civil bill court within the

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jurisdiction of which the deceased person had his last place of abode or place of business in Ireland, or in which the executors or administrators, or any of them, shall have their or his places or place of abode:

- (d.) Proceedings in partnership cases shall be taken in the civil bill court within the jurisdiction of which the partnership business was or is carried on, or in which the defendants, or any of them, reside or resides, or carry or carries on business, or have or has their or his place of business;
- (e.) Proceedings for the specific performance of any agreement for the sale, purchase, or lease of any property, or for the reforming, cancelling, or delivering up of any such agreement or lease, shall be taken in the civil bill court within the jurisdiction of which the defendants, or any of them, reside or resides, or have or has a place of business, or in which such property shall be situate, and where the said property shall be situate within the jurisdiction of two or more civil bill courts, then in any of such civil bill courts:
- (f.) Proceedings under the Trustee Relief Acts, or under the Trustee Acts, or any of such Acts, shall be taken in the civil bill court within the jurisdiction of which the person or persons making the application, or any of them, resides or resides:
- (g.) Proceedings relating to infants shall be taken in the civil bill court within the jurisdiction of which the infants reside:
- (h.) Proceedings which are not otherwise provided for shall be taken or instituted in the civil bill court within the jurisdiction of which the defendants, or any of them, reside or carry on business:

Provided that if during the progress of any such suit, matter, or proceeding it appears to the court that the same may be more conveniently prosecuted in some other civil bill court, it shall be competent for the court, with the consent of the Lord Chancellor, to transfer the same to such other civil bill court, and thereupon the suit, matter, or proceeding shall proceed in such other civil bill court.

In administering estates  
court may  
partition  
instead of  
selling and  
converting  
lands.

15. In administering the estate of a deceased person the judge of the civil bill court shall not be bound, for the purpose of distribution of the landed property, whether freehold estate or chattels real, to sell and convert same, but may partition the same among the persons entitled to shares of such estate, and in order to enable such partition to be made may give a personal decree against such persons, or any of them, for any excess in the value of the part or parts of the same so decreed to them, or any of them, on partition above such shares or share of such persons or person. Provided

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always, that no such partition as aforesaid shall be made without the consent in writing of the landlord or his agent duly authorised in writing in any case where the land to be partitioned is held subject to any agreement or condition restraining or prohibiting subdivision.

An administration suit may be instituted at any time after the death of the testator or intestate.

16. Any decree or order in a proceeding under this part of this Act may be varied or rescinded on a re-hearing in any case in which 10 the chairman, upon special grounds, shall think such re-hearing necessary, and on such terms as to costs or otherwise as he shall think fit; but no such re-hearing shall be allowed after the expiration of three years from the making of the decree or order so sought to be varied or rescinded.

15 17. If any party to a suit or matter in respect to which jurisdiction is by this part of this Act conferred shall be dissatisfied with

Decrees and  
orders may  
be varied or  
rescinded on  
re-hearing.

any decree, dismiss, order, or direction made therein by a chairman, such party may, within one month after the same shall have been made, appeal therefrom to the Lord Chancellor, provided that 20 such party shall within fourteen days after such decree, dismiss, order, or direction shall have been so made or given, give notice of appeal to the other party or his solicitor, and also deposit with the clerk of the peace the sum of *ten pounds* as security for the costs of such appeal, and the Lord Chancellor may make such final or 25 other decree or order as he shall think fit, and may also make such order with respect to the costs of the said appeal as he may think proper; and such order shall be without further appeal and final: Provided that nothing herein contained shall authorise any party to appeal against the decision of a civil bill court given upon any 30 question as to the value of any real or personal property for the purpose of determining the question of the jurisdiction of the court under this part of this Act, nor to appeal against the decision of a civil bill court on the ground that the proceedings might or should have been taken in any other civil bill court.

35 18. In any case within the jurisdiction of a chairman under this part of this Act, such chairman may state a case for the decision of the Lord Chancellor, who shall thereupon hear and determine the same, and such decision shall be final.

Chairman  
may state a  
case for de-  
cision of a  
superior  
court.

19. During the periods when the chairman of a county is not 40 sitting as judge at any place within such county, it shall be lawful to apply to the Lord Chancellor for an injunction in suits commenced in the civil bill court of such county, who shall have the

Power to  
Chancellor  
to grant in-  
junctions.

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same power to grant an injunction as he would have had if the suit had been originally instituted and continued in the Court of Chancery; and the granting of any such injunction shall not operate to remove such suit from such civil bill court, but the same, if continued, shall proceed in such civil bill court, unless the Lord Chancellor shall otherwise direct. 5

Power of  
Lord Chan-  
cellor to  
distribute  
business.

20. The Lord Chancellor may, if he shall think fit, by general order or otherwise provide for the distribution amongst the several judges of the High Court of Chancery of all the appeals, suits, proceedings, and matters to arise under the provisions of this part of this Act, in or over which jurisdiction is by this part of this Act conferred upon him, and thereupon each and every of the aforesaid judges shall have the same jurisdiction, power, authority, and discretion in reference to such appeal, suit, proceeding, or matter as is by this part of this Act conferred upon the Lord Chancellor. 15

## PART II.

### *Jurisdiction in Matters and Causes Testamentary.*

In certain  
matters and  
causes testa-  
mentary  
the judge of the  
civil bill  
court to have  
all the juris-  
diction of  
the Court of  
Probate in  
Ireland.

21. When it appears by affidavit to the satisfaction of the chairman of any county that the testator or intestate in respect of whose estate a grant or revocation of a grant of probate, or 20 letters of administration is applied for, had at the time of his death, his fixed place of abode in such county, and that the personal estate of such deceased person, in respect of which a grant or revocation of a grant of probate or letters of administration is applied for, did not at the time of his decease exceed in value the sum of *five hundred pounds*, exclusive of what the deceased may have been entitled to as a trustee and not beneficially, but without deducting anything on account of the debts due and owing from the deceased, and that the annual value of the landed estate, whether freehold or chattels real, which the deceased at 30 the time of his death was seized of or beneficially entitled to (if any) did not exceed *thirty pounds*; the chairman of such county shall in such cases, in addition to the jurisdiction now possessed by him, have and exercise all the jurisdiction, powers, and authorities of Her Majesty's Court of Probate in Ireland, and of the judge thereof for the time being, including the power of directing issues to be tried before a jury; provided, however, that no chairman shall have power to direct any issue in any matter or cause to be tried elsewhere, or in any other manner than that in use in his own court. 35

All the provisions of the Probates and Letters of Administra- 40  
tion Act (Ireland), 1857, or any Act amending the same, which apply to the exercise of contentious testamentary jurisdiction in the

civil bill courts conferred by such Acts, and to appeals in such cases, shall apply to the extended jurisdiction by this part of this Act conferred.

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22. The affidavit as to the place of abode and state of the property of a testator or intestate, which is to give jurisdiction to the chairman upon any such application as aforesaid, shall (except as herein-after is provided) be conclusive for the purpose of authorising such jurisdiction, and for the grant or revocation of probate or letters of administration, and no such grant of probate or administration shall be liable to be recalled, revoked, or otherwise impeached by reason that the testator or intestate had no fixed place of abode within the jurisdiction of the chairman, or by reason that the personal estate sworn to be of or under the value of *five hundred pounds* did in fact exceed that value, or that the annual value of the landed estate, whether freehold or chattels real, of or to which the testator or intestate was seized or entitled beneficially at the time of his death exceeded *thirty pounds*: Provided that whenever it shall be shown to the satisfaction of the chairman before whom any such application is pending, that the place of abode or state of the property of the testator or intestate in respect of whose will or estate an application may have been made for grant or revocation of probate or administration has not been correctly stated in the affidavit, or if correctly stated would not have authorised him to exercise such jurisdiction, he shall stay all further proceedings in his court in the matter, leaving any party to apply to Her Majesty's Court of Probate in Ireland for such grant or revocation, and such chairman may make such order as to the costs of the proceedings before him as he may consider to be just.

23. The chairman on being satisfied of the death of any party against whose assets any claim is made in his civil bill court, and that there is no legal personal representative of such person, and that the personal estate of such deceased person did not at the time of his decease exceed in value the sum of *five hundred pounds*, exclusive of what the deceased may have been entitled to as a trustee and not beneficially, but without deducting anything on account of the debts due and owing from the deceased, and that the annual value of the real or freehold estate which the deceased at the time of his death was seized of or beneficially entitled to (if any) did not exceed thirty pounds; and that it is expedient that a legal representative should be raised to such deceased person may, by order in writing under his hand appoint such person as such chairman shall consider proper

Affidavit to be conclusive to authorise the jurisdiction of the civil bill court.

Power to grant immediate administration in certain cases.

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— to be the administrator of such deceased person, on the person so appointed lodging with the clerk of the peace such sum as the chairman shall consider sufficient to represent the probable amount of the probate duty payable in respect of the assets of such deceased person; and the person so appointed shall for all purposes 5 represent such deceased person in the same manner as if such deceased person had died intestate, and administration had been duly granted to the person so appointed of the personal estate and effects of such deceased person under the provisions of this part of this Act.

*Grants by  
chairmen to  
be deemed  
grants by  
Court of  
Probate.*

24. All grants of probate and letters of administration granted 10 by any chairman under the authority of this part of this Act shall be deemed grants by the Court of Probate, and shall have effect over the personal estate and chattels real of the deceased in all parts of Ireland accordingly.

*Clark of the  
peace to  
transmit will  
to the dis-  
trict regis-  
tar after  
grant.*

25. The clerk of the peace of any county after every grant of 15 probate or letters of administration with a will annexed by the chairman of such county shall transmit the will, of which such probate or letters of administration may have been granted, to the district registrar of the district in which such grant has been made, and such registrar shall preserve all original wills in the public 20 registry of the district, subject to such regulations as the judge of the Court of Probate may from time to time make, relating to the preservation thereof, and the convenient inspection of the same; and in every proceeding before any chairman an office copy of any will or testamentary document lodged in such registry shall, 25 upon proof of the signature of the district registrar certifying the same to be a true copy of such will or testamentary document, be admitted as evidence of the contents thereof.

*Bond to be  
given by the  
person ob-  
taining let-  
ters of ad-  
ministration.*

26. Every person to whom any grant of administration shall be committed shall give a bond to the chairman having jurisdiction in 30 the place in which such administration has been granted, to ensure for the benefit of such chairman for the time being with one or more surety or sureties conditioned for duly collecting and administering the personal estate of the deceased, which bond shall be in the form directed by any general order to be from time to time 35 made under the authority of this Act.

Such bond shall be in a penalty of double the amount under which the estate and effects of the deceased shall be sworn, unless such chairman shall in any case think fit to direct the same to be reduced, in which case it shall be lawful for him so to do; and he 40 may also direct that two or more bonds shall be given, so as to limit the liability of any surety to such amount as he shall think reasonable.

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Such chairman may on any application being made to him, and on being satisfied that the condition of any such bond has been broken, order the clerk of the peace to assign the same by indorsement thereon to some person to be named in such order, and upon such indorsement being made such person, his executors or administrators, shall be entitled to sue on the said bond in his own name, both at law and in equity, as if the same had been originally given to him instead of to such chairman, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the said bond.

27. The Lord Chancellor may cause seals to be made for the use of the respective civil bill courts in matters and causes testamentary, and may cause the same from time to time to be broken, altered, and renewed at his discretion; and all probates, letters of administration, orders, and other instruments and exemplifications, and copies thereof respectively purporting to be sealed with any seal of a civil bill court, shall in all parts of the United Kingdom he received in evidence without further proof thereof.

28. If any person shall forge the signature of the clerk of the peace to any probate or letters of administration, or forge any seal of a civil bill court, or tender in evidence any document with a false or counterfeit signature of such clerk of the peace, or with a false or counterfeit seal, such person shall be guilty of forgery, and shall be liable on conviction to imprisonment for any term not exceeding three years with or without hard labour.

29. No proceedings under the authority of this part of this Act shall be taken in any county unless or until the Lord Lieutenant shall, by and with the advice and consent of the Privy Council in Ireland by order to be published in the Dublin Gazette, declare that such proceedings under the authority of this part of this Act as shall be specified in such order may from and after the date of such order be taken in such county, and thereafter such proceedings may be taken, and all the preceding provisions of this part of this Act shall apply to such proceedings.

Power of  
judge to  
cause seals  
of the court  
to be pro-  
vided.

Penalty on  
forging or  
counterfeiting  
seals or  
signatures of  
the clerk of  
the peace.

Proceedings  
under this  
part of this  
Act not to be  
taken unless au-  
thorized by  
Order in  
Council.

### PART III.

#### *As to enforcing Decrees and making Rules.*

30. The jurisdiction conferred by Parts I. and II. of this Act shall be exercised in the chief town of each county, and, if it

[82.]

B 2

Power to  
fix places  
where  
equitable  
and teste-

A.D. 1836. shall seem expedient, also in such other town or towns within such county as the Lord Lieutenant, by and with the advice and consent of the Privy Council in Ireland, shall by order direct.

31. Any proceeding taken in the civil law courts under the preceding provisions of this Act shall be commenced by summons, or such other form, and generally be conducted in such manner as shall be prescribed by the rules and orders to be made as by this Act provided, and such rules may direct in what manner money or securities are to be lodged by trustees under the Trustee Relief Act.

#### PART IV.

10

#### *Extension of existing Jurisdiction.*

**32.** The jurisdiction given to the civil bill courts in actions at law by the thirty-fifth section of the Civil Bill Courts (Ireland) Act, 1851, shall be extended so as to authorise the recovery of any debt, damages, or demand not exceeding the sum of *fifty pounds*, 15*l*, including any debt or demand not exceeding the said sum of fifty pounds, which is the whole or part of the unliquidated balance of a partnership account, as well as any debt, damage, or demand, which consists of a balance not exceeding the said sum of fifty pounds, after an admitted set off of any debt or demand claimed or recoverable by the defendant from the plaintiff.

33. Whenever any action shall be remitted by one of the superior courts or by a judge thereof to a civil bill court, under the provisions of the sixth section of the Commons Law Procedure Amendment (Ireland) Act, 1870, the jurisdiction of the civil bill court shall not be restricted to the sum of fifty pounds, but shall extend to the amount the plaintiff might have recovered in such action if the same had not been remitted; and where the damages claimed in such action shall exceed the sum of twenty pounds, either of the parties thereto shall have the same powers, by the same means and subject to the same conditions and restrictions as to time, and otherwise to require a jury to be summoned to try such action, as if the same had been commenced by civil bill in the said civil bill court, and thereupon the said jury shall be summoned and such action tried in the manner provided by the one hundredth section of the Civil Bill Courts (Ireland) Act, 1851, in the case of actions commenced by civil bill; and if the plaintiff in such action shall

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have omitted or refused to lodge the order of the said superior court or judge, remitting the same, together with the summons and plaint, with the clerk of the peace, as by the said order directed, the defendant may, at any time during the sessions named in such order, lodge with the clerk of the peace certified copies of the said order and of the said summons and plaint for the purpose of having such action dismissed by the chairman of such civil bill court, and thereupon the said chairman shall have the same power, jurisdiction, and authority to dismiss and award costs to the defendant as if the plaintiff had duly lodged with the clerk of the peace the said order and summons and plaint, and had failed to proceed thereon at the said sessions.

**34.** In the seventy-ninth section of the Civil Bill Courts (Ireland) Act, 1851, the words "*fifty pounds*" shall be substituted for the words "*twenty pounds*" wherever the same occur in such section, and the jurisdiction conferred on the civil bill courts by the said enactment shall be extended accordingly.

Extension of  
possessory  
jurisdiction  
given by  
s. 79 of  
14 & 15 Vict.  
c. 57.

**35.** Whereas doubts have arisen as to the construction of the Act of the session of Parliament held in the thirty-seventh and thirty-eighth years of the reign of Her present Majesty, chapter sixty-six, it is hereby declared that the words "action in which the title to any corporeal or incorporeal hereditaments shall come in question" in the said Act contained include an action of ejectment upon the title. And the provisions of the said Act shall, in cases where there is no separate valuation under the Acts relating to the valuation of ratesable property in Ireland of the lands in dispute, or in, through, over, or in respect of which an easement is claimed, be applicable if the annual value of such lands ascertained according to the principles of valuation prescribed by the said Acts shall not exceed *twenty pounds* a year.

Act of  
37 & 38 Vict.  
c. 65, ex-  
plained and  
amended.

**36.** In all cases whatsoever in which actions may be brought in any superior court of common law (excepting, however, the case of criminal conversation, but including actions for breach of promise of marriage, libel, and slander), if both parties agree by a memorandum signed by them or their respective attorneys, that any civil bill court named in such memorandum shall try such action, such civil bill court shall have jurisdiction to try the same, and make such decree therein as shall appear just. Such action shall be brought by civil bill, and the proceedings therein shall be the same as in cases within the ordinary jurisdiction of the court; save that there shall be no restriction as to the property or amount which may be recovered therein.

By consent  
of parties  
civil bill  
court may  
try any case  
except crimi-  
nal.

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Appeal.

37. In any case in which a party shall be dissatisfied with the judgment or decree of the chairman in any proceeding under the jurisdiction conferred by this part of this Act, including jurisdiction by consent as herein provided, or under the jurisdiction conferred by the Common Law Procedure Amendment Act (Ireland), 1870, 5 as amended by this Act, it shall be lawful for such party to appeal against such judgment or decree in like manner, and upon the like terms and stipulations as appeals are allowed to be brought under the Civil Bill Courts (Ireland) Act, 1851, or any statutory amendment thereof.

10

Costs to  
be discre-  
tionary in  
certain cases.

38. Costs shall be in the discretion of the chairman in the following cases:

- (1.) Whenever there shall be a proceeding by civil bill to recover damages for trespass by animals, in respect of which provision is made by the Summary Jurisdiction Act (Ireland), 15 1851; and also
- (2.) Whenever there shall be a proceeding by civil bill to recover a debt which might have been sued for under the provisions of the Act of the twenty-second year of the reign of Her present Majesty, chapter fourteen, section five, had 20 such proceeding been taken within the twelve months limited by the said Act.

## PART V.

### GENERAL PROVISIONS.

Judgment by  
default.

39. Upon the hearing of any civil bill process for debts or 25 liquidated demands in money, the plaintiff may be permitted to prove his case by affidavit: Provided always, that if the chairman be dissatisfied with such proof, or if a defence shall have been entered to such civil bill, the said chairman shall, upon such terms as to costs as to him shall seem just, adjourn such hearing either 30 to the next sessions or to any subsequent day during the same sessions, in order that the plaintiff may prove his case in manner heretofore necessary in such civil bill court.

Power to  
enforce  
decrees or  
orders of  
civil bill  
courts.

40. For the due execution of any judgment, decree, or order made under the authority of this Act, or of the rules and orders to be 35 fined as herein-after provided, the civil bill court shall have power to order and the clerk of the peace upon such order shall have authority to seal and issue, and the high sheriff or under-sheriff shall have power and be bound to execute, any writ or warrant of execution,

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attachment, or process of execution for carrying into effect any judgment, decree, or order of the civil bill court, and such writs, warrants, and processes shall be in the form and executed at the time and in the manner to be set forth in the rules and orders to be framed as herein-after provided.

41. Such of the decrees or orders of the civil bill courts as may be directed by any rule or order made as hereafter provided shall be registered with the registrar of judgments and decrees in Dublin in such manner as may be directed by any general rule or order of the

10 Lord Chancellor.

42. Any moneys the proceeds of the execution of any writ of *Fieri facias* or civil bill decree belonging to any judgment creditor (including therein the plaintiff of any civil bill decree) shall, while it shall continue in the hands of the sheriff, be liable to be seized

15 and taken in execution under any writ of *Fieri facias* or civil bill decree against the goods and chattels of such judgment creditor which may be delivered to such sheriff for the purpose of execution : Provided always, that nothing herein contained shall postpone or prejudice the right of any person who may have previously 20 obtained an order in any court of law or equity for the attachment or payment of such moneys ; and provided further, that the sheriff shall be entitled to his poundage fees on the sum so seized and taken in execution.

43. If there shall be cross decrees made in any civil bill court 25 at the same sessions, or cross decrees, both of which are unexecuted or only partially executed, made at different sessions between the same parties, it shall be lawful for the chairman to direct that a decree shall be taken out by that party only who shall have obtained judgment for the larger sum, and for so much only as shall remain 30 after deducting the smaller sum, and satisfaction for the remainder shall be entered by the clerk of the peace in his court book for the smaller sum, and, if both sums shall be equal, satisfaction shall be entered in like manner for both sums, and in such event no decree shall be issued in either case.

35 44. The bankruptcy of the plaintiff in any action or suit in a civil bill court which the assignees might maintain for the benefit of the creditors shall not cause an abatement of such action or suit, if the assignees shall elect to continue the same, and to give such security for the costs thereof as the chairman may 40 direct, or deposit with the clerk of the peace a sum sufficient to cover the same within such reasonable time as the chairman shall order ; but the hearing of the cause may be adjourned until such

Decrees and  
orders of the  
civil bill  
courts to be  
registered.Moneys in  
hands of  
sheriff shall  
be taken in  
execution.Cross-decrees  
may be set  
off against  
each other.The bank-  
ruptcy of  
the plaintiff  
after action  
brought shall  
not cause the  
action to  
abate, if the  
assignees  
elect to con-  
tinue it.

A.D. 1876.

election is made, and in case the assignees do not elect to continue the action, and to give such security within the time limited by the order, the defendant may avail himself of the bankruptcy as a defence to the action or suit.

Acknow-  
ledgments of  
deeds by mar-  
ried women  
may be re-  
ceived by  
chairman.

**45.** Any acknowledgment to be made by any married woman 5 of any deed under an Act passed in the session of Parliament held in the fourth and fifth years of the reign of His late Majesty King William the Fourth, chapter ninety-two, may be received by the chairman or judge of any civil bill court, in like manner, and subject to the like provisions as such acknowledgments may be 10 received by a judge of a superior court.

Chairman  
may appoint  
a next friend  
or guardian  
ad litem to  
act for an  
infant.  
Chairman  
may direct  
money be-  
longing to an  
infant to be  
paid into  
bank.

**46.** Where any action or suit at law or in equity is brought on behalf of or against any infant it shall be lawful for the chairman, by any order in writing under his hand, to appoint a next friend or guardian ad litem, to act for or on behalf of such infant, or to 15 change any such next friend or guardian ad litem already appointed, and to appoint another in his place; and the chairman shall also be empowered to direct any money or other personal property to which such infant may be entitled to be secured or invested for the benefit of such infant, in such manner as the chairman shall consider 20 advisable.

Where the  
court has no  
jurisdiction  
to try the  
cause chairman  
should  
strike it out,  
but may give  
costs.

**47.** Where a cause is brought in a civil bill court, which the court has no jurisdiction to try, the chairman shall order the cause to be struck out, but shall have power to award costs in such manner and to such extent, and recoverable by the same means, as if the 25 court had jurisdiction in such action or suit, and the plaintiff had not appeared, or had appeared, and failed to prove his demand; but this enactment shall be without prejudice to the provisions contained in Part I. of this Act with respect to suits and matters, the subject matter of which exceeds the limit in point of amount of 30 the jurisdiction of the chairman under the said Part I. of this Act.

Provisions of  
Civil Bill  
Acts as to  
juries and  
witnesses  
extended to  
this Act.

Affidavits,  
&c. may be  
sworn and  
taken before  
commissioners in  
Chancery,  
clerk of  
pease, or  
justice.

**48.** The duties and obligations of and upon all jurors, suitors, and witnesses, and their liability to penalty and punishment, shall, in any proceeding under this Act, be the same as those contained, authorised, and imposed by the several statutes now in force 35 relating to civil bill suits.

**49.** All affidavits, depositions on oath, declarations, affirmations, and attestations, to be used in any civil bill court may be sworn and taken before any commissioner to administer oaths in Chancery; or before the clerk of the peace of the county in which such civil bill 40 court is held, or before a justice of the peace of such county, and shall before being used be lodged with the clerk of the peace, and shall by him be filed and kept amongst the records of the county.

A.D. 1878.

Appoint-  
ment of  
temporary  
chairman  
on death or  
resignation  
of chairman  
during ses-  
sions.

50. In case of the death or resignation of a chairman either before or during the holding of any sessions within his county, it shall be lawful for the Lord Chancellor to appoint a barrister with the qualifications required by the seventh section of the Civil Bill Courts (Ireland) Act, 1851, to perform the duties of the chairman of such county during the said session or the remainder or any adjournment thereof, or until the appointment of a successor to the chairman so dying or resigning.

Such temporary chairman shall take the oath and have all the powers given to a barrister appointed under the said seventh section in the case of sickness or absence of a chairman, and he shall be paid such sum as the Lord Chancellor shall think fit to direct, the same to be paid out of the fund provided for the salary attached to the office of chairman of said county.

15. Any justice of the peace for the county, or the clerk of the peace, or his deputy shall have the same power of adjourning the court of the chairman of such county in case of the death or resignation of such chairman as is given to them in the case of illness or absence by the eighth section of the Civil Bill Courts (Ireland) Act, 1851.

20. 51. It shall be lawful for the Lord Lieutenant, by and with the advice and consent of the Privy Council in Ireland, to order and direct that the whole of the civil or criminal or other business usually transacted at general or quarter sessions of the peace, or at civil bill or land sessions, including licensing business and the business 25 of appeals from petty sessions, or any part or parts of such businesses respectively, may be conducted at any town or towns in any county, either having regard to or irrespective of the divisions for the time being existing in such county, and notwithstanding any enactments requiring any business to be done in any particular division or place, and also to order and direct that any division may for the purposes of any specified business be merged in and form part of any other division, or be merged in the county at large whilst existing or continuing to exist for all other purposes as a separate division.

35. Any order under this section shall, after publication in the Dublin Gazette, have the like force and effect as if it had been enacted in this Act, and is in this Act referred to as an "arrangement of business order."

52. In every appeal from any order of the justices in a case 40 of summary jurisdiction under the provisions of the twenty-fourth section of the Petty Sessions (Ireland) Act, 1851, the recognition into which the appellant is thereby required to enter shall

Form of re-  
cognition  
in appeal  
from petty  
sessions.

A.D. 1876. he conditioned to prosecute such appeal, and to abide the judgment and order of the Court of Appeal thereon, and to pay such costs as may be awarded by said court, and in the case of an order to imprison not to abscond pending the execution of the said original order, or of the judgment or order of the said court, and save as 5 aforesaid shall he in the form prescribed by the said Act.

In addition to the powers, jurisdiction, and authority conferred by the Petty Sessions (Ireland) Act, 1851, with respect to appeals, the court before which any such appeal shall be pending shall have power to adjourn such appeal, or to remit the matter to the justices 10 with the opinion of the said court thereon, or to make such order in the matter as the said court may think just.

Whenever any such appeal shall not have been prosecuted, or the original order shall have been confirmed, or varied upon appeal, or either party shall upon such appeal have been ordered to pay 15 costs, the court making such order shall have, and at their discretion may exercise, the same powers, jurisdiction, and authority to issue the proper warrant for the execution of the said original order, or of such varied order, or to enforce the payment of the said costs as is by the said twenty-fourth section conferred upon the justices who 20 made the said original order, or any other justices of the same petty sessions.

*Estreating  
of recogni-  
zances.*

53. So much of the said twenty-fourth section of the Petty Sessions (Ireland) Act, 1851, as provides for the estreating of the recognizances of the party bound to prosecute an appeal shall be and the same 25 is hereby repealed, and from and after the passing of this Act, whenever the party bound to prosecute an appeal against an order to imprison shall have absconded, either before or after the hearing of the said appeal, or the time fixed for the hearing thereof where the same shall not have been prosecuted, or when the party bound to prosecute any appeal shall not have performed and abided the order of the said Court of Appeal made therein, or where the party bound to prosecute an appeal against any order for the payment of any penal or other sum shall have no goods wheremto levy the same by distress, it shall be lawful for the justices at petty sessions where the 30 original order was made, and after like proof of notice to the parties as in estreating other recognizance in summary proceedings, to make an order for estreating the recognizance in any such case to such amount as they shall think fit, and for paying out of such amount such sum as shall have been directed to any party by such 35 original order and thereupon to issue a warrant in the form in the schedule to the said Act annexed for the levy of the same upon the goods of the several persons bound thereby.

A.D. 1876

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No conviction  
to be  
quashed on  
the ground  
of an error  
in the com-  
plaint.

54. No conviction or order made by any justice or justices in any matter over which he shall have jurisdiction shall be held void, or shall be quashed by reason of any defect or omission in the summons, charge, or information upon which the same shall purport to have been made, or by reason of the same being under a statute different from that referred to in such summons, charge, or information, provided that such defect, omission, or variance shall not have misled or prejudiced the defendant or have affected the merits of the case; provided always, that it shall be lawful for the justice or justices at the original hearing, or for any court of appeal or superior court before whom the decision of such justices shall afterwards come, if they shall so think fit, and upon such terms as shall appear just, to make any amendment in such summons, charge, or information, which shall appear to be requisite for the purpose of making the conviction or order conformable with the same, or raising the real question at issue and meeting the justice of the case.

55. The forty-ninth section of the Civil Bill Acts Amendment (Ireland) Act, 1864, shall be and the same is hereby repealed, and from and after the passing of this Act if on the trial of any appeal to any court of general quarter sessions of the peace in Ireland, or to the chairman of the county against any conviction or order made or pronounced by a justice or justices of the peace, or if upon showing cause against the issue of or upon the return to any writ of certiorari any objection shall be taken on account of any omission or mistake in the making or drawing up of such conviction or order, or any defect or excess of jurisdiction therein, or any variance between the facts stated in such conviction or order and the complaint or the evidence adduced in respect thereof; and if it shall be shown to the satisfaction of the Court that sufficient grounds were in proof before the justice or justices making such conviction or order, to have authorised the making or drawing up thereof free from the said omission or mistake, defect, or excess, or that such variance is in some point not material to the merits of the case, it shall be lawful for the Court, if it shall so think fit, to amend such conviction or order on such terms as it shall think fit, and to adjudicate thereupon as if no such omission, mistake, error, or variance had existed, or to make such order as in their opinion the justices ought to have made in the matter, or to remit the same to the justices and direct that the order or conviction shall be drawn up free from such error as aforesaid or the case reheard as justice shall require: Provided always, that no objection on account of any omission or mistake or error as aforesaid in any such order or conviction brought up upon a writ of certiorari shall be allowed, unless such omission

No convic-  
tion to be  
quashed on  
ground  
of trivial  
mistake.

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shall have been specified in the conditional order for issuing the said certiorari.

Exceptions  
need not be  
negatived.

56. In all proceedings in cases of summary jurisdiction under the Petty Sessions (Ireland) Act, 1851, or any Act incorporating or referring to the same, it shall not be necessary to specify or negative in any complaint, information, or conviction, any exception, exemption, proviso, qualification, or excuse contained in the statute on which the said complaint or information shall have been framed, whether the same does or does not accompany the description of the offence in the said statute, and the same may be proved at the hearing by the defendant if he will have the advantage of the same; and if the same be specified or negatived in the information or complaint no proof in relation to the matters so specified or negatived shall be required from the complainant.

Power to  
make rules  
and orders.

57. The Lord Chancellor, with the advice and concurrence of the chairmen, or any five of them, may at any time after the passing of this Act frame rules and orders for regulating the practice of the civil bill courts under the provisions of this Act, and the forms of proceedings therein, and for defining the duties of the clerks of the peace and other officers of the civil bill courts in connexion with the jurisdiction by this Act conferred, or otherwise for carrying this Act into effect, and may from time to time amend such rules, orders, and forms; and such rules, orders, and forms, certified under the hands of the Lord Chancellor and any five of the chairmen, shall, from and after the *first day of January one thousand eight hundred and seventy-six*, or from a day subsequent thereto to be named by the Lord Chancellor, be in force in every civil bill court. It shall also be lawful for the Lord Chancellor, with the consent of the recorder of any court, at any time after the passing of this Act to make rules regulating the practice and procedure in such court, and the same shall from and after the *first day of January one thousand eight hundred and seventy-six*, or from a day subsequent thereto to be named by the Lord Chancellor, be in force in such court.

Jurisdiction  
extended to  
recorders of  
Dublin and  
Cork.

58. All jurisdiction, powers, and authorities by this Act conferred upon the judges of the civil bill courts are hereby conferred upon the recorder of the city of Dublin and recorder of the city of Cork.

#### *Pensions, Salaries, and Fees.*

Increase of  
salaries.

59. No addition shall be made to the salaries of the chairmen in consideration of the increased duties herein-before imposed upon them beyond the additions to their respective salaries authorised by

the Act of the session of the second and third years of the reign of A.D. 1876.  
 his late Majesty William the Fourth, chapter eighty-eight, and by  
 the sixty-third section of the Landlord and Tenant Act (Ireland),  
 1870, and such additions shall be payable in the same manner as the  
 5 salaries provided for them by the Civil Bill Courts (Ireland) Act, 1851 :  
*Provided always, that notwithstanding anything herein contained, the Treasury may, with the concurrence of the Lord Chancellor, pay the travelling expenses of the chairmen out of such funds as Parliament may from time to time provide for that purpose.*

10 60. The pension which may be granted to the chairman of a county under the Act of the session of Parliament held in the twenty-first and twenty-second years of the reign of Her present Majesty, chapter eighty-eight, shall be calculated upon the salary payable to such chairman at the time of his resignation as chairman 15 of such county, or as chairman of two or more counties united under the authority of this Act.

61. In case at any time after the passing of this Act the Right Honourable Sir Frederic Shaw, Baronet, shall resign the office of recorder of the city of Dublin, it shall be lawful for Her Majesty, Provision as to existing recorder of recorder of city of Dub-  
 20 in consideration of his lengthened services extending over a period of 47 years, to grant to him for his life a pension or yearly sum not exceeding in amount the annual sum now payable to him by way of salary ; and such pension or yearly sum shall be paid in like manner, in the same proportions, at the same times, and out of 25 the same funds as his salary previous to the grant of such pension or yearly sum. He shall also be entitled and continue to receive for his life from the borough fund of the city of Dublin the same annual sum as he has heretofore received.

62. The office of recorder of the city of Galway shall on the next 30 vacancy cease to exist, and all the jurisdiction heretofore exercised by the recorder shall vest in and be exercised by the chairman of the county of Galway.

63. The salary of any person appointed after the passing of this Act to the office of recorder of the city of Dublin shall be two thousand one hundred pounds per annum, and shall be paid out of the same fund and on the same days and times as the salaries of chairmen of counties. After the retirement of the present recorder the borough fund of the city of Dublin shall be no longer chargeable with the payment of any sum to any person succeeding 40 him in his office.

64. Her Majesty may at any time grant to any recorder of the city of Dublin who shall have served for fifteen years as such [82.] Pensions for future re-

A.D. 1878. recorder, or who is disabled by permanent infirmity from the performance of the duties of his office, a pension, by way of annuity, to be continued during his life, of an amount not exceeding two thirds of his salary; such pension to be growing from day to day, and payable out of the Consolidated Fund on the usual quarterly 5 days of payment, or such other days as the Treasury shall determine.

Fixing and collection of fees.

65. The Lord Chancellor, with the advice and concurrence of the chairmen, or any five of them, and with the consent of the Treasury, may, by order, fix the fees to be taken in the civil bill courts in respect of any business under this and any other Acts in force for the time being in such courts, and may, with the like consent and concurrence, alter, reduce, or increase the same from time to time; he may also, with the like concurrence and consent, alter the fees and stamp duties at present taken in those courts and substitute new ones, and in other cases, where no fees are at present imposed, declare and fix whether any and what fees shall be taken, and from time to time alter, reduce, or increase any fees so substituted or defined.

All such fees shall be payable from and after the commencement of this Act (save as otherwise directed by such order) into the receipt of Her Majesty's Exchequer, and be carried to the Consolidated Fund, and with respect thereto the following rules shall be observed:

- (1.) The fees shall, except so far as such order may otherwise direct, be taken by stamps, and if not taken by stamps 25 shall be taken, applied, accounted for, and paid over in such manner as may be directed by the order.
- (2.) Such stamps shall be impressed or adhesive, as the Treasury may from time to time direct.
- (3.) The Treasury, with the concurrence of the Lord Chancellor, 30 may from time to time make such rules as may seem fit for publishing the amount of the fees and regulating the use of such stamps, and particularly for prescribing the application thereof to documents from time to time in use or required to be used for the purposes of such stamps, 35 and for insuring the proper cancellation of adhesive stamps and for keeping accounts of such stamps.
- (4.) Any document which ought to bear a stamp under this Act shall not be of any validity unless and until it is properly stamped, but if any such document is through mistake or inadvertence received, filed, or used without being properly stamped, the court may, if it shall think fit, order that

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the same be stamped in accordance with such directions as may be set forth in such order, and on such document being stamped accordingly the same and every proceeding relative thereto shall be as valid as if such document had been properly stamped in the first instance.

5 (5.) The Commissioners of Inland Revenue shall keep such separate accounts of all money received in respect of stamps under this Act, as the Treasury may from time to time direct, and subject to the deduction of any expenses incurred by the said Commissioners in the execution of this section, the money so received shall, under the direction of the Treasury, be carried to and form part of the Consolidated Fund.

10 (6.) Any person who forges or counterfeits any such stamp, or uses any such stamp, knowing the same to be forged or counterfeit, or to have been previously cancelled or used, shall be guilty of forgery, and be liable on conviction to penal servitude for a term not exceeding *seven years*, or to imprisonment with or without hard labour for a term not exceeding *two years*.

15

20 An order under this section may abolish any existing fees which may be taken in the said courts or offices, or any of them, or by the said officers or any of them, but subject to the provisions of any order made in pursuance of this section, the existing fees shall continue to be taken, applied, and accounted for as if this Act had 25 not been passed.

When and as soon as the said fees and stamp duties shall have been fixed by the Lord Chancellor in the manner aforesaid, all the provisions contained in the Civil Bill Courts (Ireland) Act, 1851, and the Acts altering, amending, or affecting the same, in reference 30 to the stamps and fees thereby imposed and authorised to be taken, shall so far as the same may be applicable extend and apply thereto.

35 66. The Lord Chancellor may, with the advice and concurrence of the chairman, or any five of them, from time to time fix and determine the fees to be paid after the *first day of January one thousand eight hundred and seventy-seven*, to the clerks of the peace in respect of any duties or business imposed upon them by this Act, and may alter those heretofore received by them and substitute others.

40 67. No person shall be appointed a clerk of the peace who is not a practising attorney or solicitor of ten years standing; and every clerk of the peace so appointed shall discharge the duties of

Fees for  
clerks of  
peace.Qualification  
of clerk of  
peace.

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his office in person, and not by deputy, except, in case of illness, by permission of the Lord Chancellor.

No clerk of the peace shall practise in the civil bill court or at quarter sessions in the county of which he is clerk of the peace.

Deputies of  
clerks of the  
peace ap-  
pointed  
before pass-  
ing of Act.

68. No person holding the office of clerk of the peace at the time of the passing of this Act shall appoint any person to act as his deputy unless such person shall be approved of by the Lord Chancellor; and any deputy of any clerk of the peace shall be removable by the Lord Chancellor.

Power to  
frame a scale  
of costs and  
charges.

69. The Lord Chancellor, with the assent and concurrence of the chairmen or any five of them, may from time to time frame a scale of costs and charges to be paid to counsel and attorneys with respect to all proceedings authorised to be taken in the civil bill courts, either by this or any other Acts in force for the time being, and from time to time amend such scale; and such scale or amended scale, certified under the hands of the Lord Chancellor and any five chairmen, shall, from the *first day of January one thousand eight hundred and seventy-six*, or from a day subsequent thereto to be named by the Lord Chancellor, be in force in every civil bill court.

Like power  
as to courts  
of recorders  
of boroughs.

70. The powers of fixing and collecting fees and framing a scale of costs and charges to be paid in the civil bill courts, or in connexion with proceedings therein, may be exercised by the Lord Chancellor also in and for the courts of recorders of boroughs, but in lieu of the assent and concurrence of the chairmen, such powers shall be exercised with the assent and concurrence of the recorders or any two of them; and the several provisions of this Act with respect to the mode of giving effect to the exercise of such powers by the civil bill courts, and the collection and application of fees therein levied, shall also apply to and be in force with regard to the courts of the recorders.

30

## PART VII. UNION OF COUNTIES.

On vacan-  
cy of chairman-  
ship Lord  
Lieutenant  
in Council  
may unite  
counties  
under one  
chairman.

71. For the purpose of effecting, according as circumstances may require, the union of two or more counties under one chairman, the Lord Lieutenant, by and with the advice and consent of the Privy Council in Ireland, may, if expedient, make an order whenever a vacancy shall occur in the office of chairman of a county, for the permanent or temporary union of such county (hereinafter referred to as "the vacant county") with another county for the

purposes of the criminal and civil jurisdiction exercised by the chairman subject to the provisions following : A.D. 1878.

(1.) Such order may provide for permanently uniting the offices of chairman of the vacant county and of any other county, the chairman whereof shall have been appointed since the *first day of January one thousand eight hundred and seventy-four*, or shall consent thereto, and from and after the date of such order on every vacancy in such offices from time to time but one person shall be appointed to fill the same, and the person from time to time holding the offices so united by such order shall exercise in each county all the jurisdiction conferred by this or any other Act on the chairman of each such county.

*The Lord Lieutenant may, if he shall think fit, with the consent of the Treasury, fix an increased salary, to be payable from and after the date of such order, to the chairmen of such united counties, and thereupon the same shall be paid out of the same funds and in the same manner as the salary of such chairman was payable at the date of such order, provided that in no case shall the amount fixed for such increased salary exceed the salary payable by virtue of this and any other Act to a chairman of the first class; or,*

(2.) Such order may provide that the chairman of some other county to be named therein, who shall have been appointed since the *first day of January one thousand eight hundred and seventy-four*, or who shall consent thereto, shall for a limited period named therein have all the authority and power, and exercise in such vacant county all the jurisdiction conferred by this or any other Act upon the chairman thereof, and hold the office in the same manner as he holds the office in the county of which he is chairman.

*The Lord Lieutenant may, if he shall think fit, with the consent of the Treasury, fix an additional salary to be paid to such chairman in respect of his increased duties, and thereupon the same shall be payable to him, while he shall discharge such additional duties, in addition to his previous salary, out of moneys to be provided by Parliament for such purposes, notwithstanding any limitation of amount of salary in this Act provided.*

(3.) When two counties have been permanently or temporarily united, and the Lord Lieutenant, with the advice and con-

A.D. 1876.

sent of the Privy Council in Ireland, shall deem it expedient from time to time to unite the counties so united with any other county or counties, the preceding provisions of this section shall in every such case apply and be in force and have effect as if such union were the union of two counties, and for such purpose the counties united at the time of such proposed further union shall be deemed to be one county.

(4.) With a view to the permanent union of counties, it shall also be lawful for the Lord Lieutenant, with the concurrence of the Lord Chancellor and of the Treasury, if in any case it shall seem to them expedient for that purpose, to permit and enable the retirement of a chairman with an annual grant by way of special pension not exceeding two thirds of his salary, notwithstanding the conditions imposed by any other Act on the grant of a pension.

Until the number of chairmen shall have been reduced to twenty-one, whenever a vacancy shall occur in the office of chairman of any county provision shall, if practicable, be made for the discharge of the duties of such office by moving thereto a chairman of some other county, or by means of the powers contained in this section.

Power to  
unite offices  
of recorder  
of city, and  
chairman of  
county,  
Dublin.

72. When after the passing of this Act a vacancy shall occur in the office of chairman of the county of Dublin, the Lord Lieutenant, by and with the advice and consent of the Privy Council in Ireland, shall possess and may exercise the same powers of uniting permanently the office of chairman of the county of Dublin with the office of recorder of the city of Dublin and for regulating the times, places, and districts within which the jurisdiction of such chairman and recorder shall be exercised, as are by this Act conferred for the purpose of effecting the permanent union of the offices of chairmen of counties and in connexion therewith; and in case such offices shall be so united, the person appointed thereto shall be entitled to receive the salary by this Act provided for any person appointed after the passing of this Act recorder of the city of Dublin and no more.

On any such  
union Lord  
Lieutenant  
in Council  
may alter  
times for  
holding assi-  
ssions, &c.

73. Whenever two or more counties have been united under the preceding provisions of this Act, it shall be lawful for the Lord Lieutenant, notwithstanding anything contained in the Civil Bill Court (Ireland) Act, 1851, or any other Act, by and with the advice and consent of the Privy Council in Ireland, from time to time by

A.D. 1878.

order to appoint the times and places at which, and the districts or divisions for which, the general or quarter sessions of the peace and civil bill court or civil bill court only shall be held in and for the said respective counties, and, so far as may be practicable in 5 the case of such union, exercise with respect to such united counties the powers conferred by this Act with respect to the making of an arrangement of business order.

Every such order shall be published in the Dublin Gazette, and shall thereupon become and be as valid and effectual for all purposes 10 as if the same were enacted in this Act; but any such order may be rescinded or varied by any subsequent order made and published in like manner.

74. The Lord Lieutenant, by and with the advice of Her Majesty's Privy Council in Ireland, and with the concurrence of 15 the Lord Chancellor and of the Treasury, may from time to time remove the name of any county from the class in which by any Act it is now placed and insert it in a different class; and thereupon such county shall for all purposes be and continue to form one of the counties of the class to which its name has been so removed: 20 Provided always, that except upon a vacancy in the office of chairman no county shall be placed in a class lower than that in which it is at the time of the passing of this Act.

75. No person who after the passing of this Act shall be appointed chairman of any county or of any permanent union of 25 counties shall practise at the bar.

*Power to  
vary classi-  
fication.*

*Certain  
chairmen  
not to  
practise.*

# Civil Bill Courts (Ireland).

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A

## B I L L

To extend the Jurisdiction of the  
Courts for hearing Civil Bill Causes  
in Ireland, and for other purposes  
relating thereto.

W

(Prepared and brought in by  
Mr. Solicitor-General for Ireland and  
Sir Michael Hicks Beach.)

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Ordered, by The House of Commons, to be Printed,  
18 February 1876,

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[Bill 82]

Under 4 oz.